

Docket No. 2138.001R
U.S. Serial No. 10/661,292

REMARKS

Claims 1-18 were presented in the application as filed, and claims 8-18 were canceled and new claims 19-28 were added in a Preliminary Amendment filed with the application. Claims 1, 2, 4-7, 19, 20 and 27 were canceled, and new claims 29 and 30 were added in a Response filed on November 19, 2004. Therefore, claims 3, 21-26 and 28-30 are currently pending.

In the Amendment presented herewith, new claims 31-35 are added. Claims 31 and 32 are identical to claims 1 and 2 before cancellation, and claims 33 and 34 are identical to claims 19 and 20 before cancellation. Claims 21-26, which were originally dependent on claim 19, are now amended to depend from claim 32. Support for new claim 35 may be found in Example 1.

INTERVIEW SUMMARY

A telephone interview between Examiner Conley and applicants' undersigned attorney was held on March 8, 2005. Applicants note here that the Examiner's effort and commitment in expediting the prosecution of the application is appreciated. During the interview, the teachings of the references were discussed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

The Office action states that claims 3, 21-22, 25 and 27-30 are rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 4,504,991, to Klancnik, in view of US Patent No. 4,762,750, to Girgis, *et al.* Applicants presume that this is a typographical error and that the claims are rejected under 35 U.S.C. §103(a) as being *obvious over* Klancnik in view of Girgis, as stated in the header of the section, and within the body. The rejection is traversed, whether for anticipation or obviousness.

The Klancnik patent relates to mattresses composed of a layer 12 of a flame retardant material bonded a layer 14 of a high tensile strength material, such as fiberglass fabric (Abstract, FIG. 1). FIG. 2 depicts an embodiment including a flame retardant layer 22, a layer of a high tensile strength material 24 and a second flame retardant layer 26 (column 5, lines 16-21). Layers 12, 22 and 26 are made of a flame retardant neoprene foam (column 5, lines 24-26). Layer 14 is composed of a high tensile strength material, preferably a "woven or nonwoven

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fiberglass fabric, scrim or cloth" (col 4, lines 60-63). Layer 24 is also a high tensile material, and fiberglass fabric is the only example of a high tensile strength material cited in the patent. (See col. 6, lines 17-27.) Klancnik makes no mention of materials having two fabric layers.

The Girgis patent relates to flexible bundles of glass fibers for use in woven and nonwoven fabrics that are coated with polymeric (PVC) films (Abstract; FIG. 1; col. 18, lines 29-39). The bundles are impregnated with a composition to improve flexibility and abrasion resistance (col. 2, lines 29-36). Girgis does not mention any materials having two fabric layers.

The Office action states that "it would have been obvious to employ the applications as taught by Girgis to improve the fibers used in the mattress of Klancnik while taking advantage of the non-flammability and stability" (page 2, last paragraph - page 3, first paragraph). Applicants submit that this point is moot, because even if it were obvious to combine the teachings of the references, the combination would still not produce the invention as claimed. Specifically, even if one of ordinary skill in the art were motivated to substitute Girgis' flexible bundles of glass fibers for the fiberglass in layer 14 or 24 in Klancnik's flame retardant material, the result of combining the teachings of the two references would be a flame retardant material composed of a single layer of a fiberglass fabric, containing the flexible bundles, and coated with neoprene foam. Since neither of the references disclose a material having more than a single layer of a fabric, the combination of the two cannot result in a material having two fabric layers, as required by the claims. Applicants therefore submit that the claims are not anticipated by or obvious over Klancnik in view of Girgis. It is believed that the rejection is hereby overcome.

Claims 23-24 and 26 are rejected under 35 U.S.C. §103(a) as being obvious over Klancnik in view of Girgis and US Patent No. 6,410,140, to Land. The rejection is traversed.

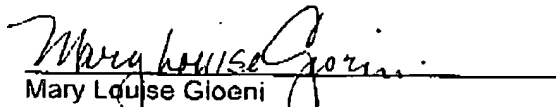
The teachings of Klancnik and Girgis are discussed above. Land relates to fire resistant corespun yarns composed of a core surrounded by a first and second sheath (Abstract). The core may be fiberglass (Examples 1 and 2). Fire resistant fabrics can be formed from the corespun yarns (Abstract), however, Land does not mention any fire resistant materials having more than one fabric layers.

The Office action states that Klancnik discloses all of the Applicant's claimed limitations except for the at least one flame-retardant fiber comprising para-aramid fiber and a blend of flame-retardant viscose and modacrylic fibers" (page 4, third full paragraph). With respect, Applicants point out that the Office action itself states that Klancnik fails to disclose the fire barrier fabric comprising a textile (page 3, last paragraph) (*i.e.*, a second fabric layer). As noted above, Girgis fails to cure this deficiency. Land also fails to cure the deficiency, since the Land

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reference relates only to fabric composed of a *single* fire-retardant layer. Therefore, the combination of the three references cannot result in the invention as claimed, and applicants submit that the claims are not obvious over the combined references. It is believed that the rejection is hereby overcome

Respectfully submitted,


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